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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,790	01/30/2002	Akihiro Denda	107156-00095	4718

7590 05/27/2005

ARENT FOX KINTNER PLOTKIN & KAHN, PLLC
Suite 600
1050 Connecticut Avenue, N.W.
Washington, DC 20036-5339

EXAMINER

PSITOS, ARISTOTELIS M

ART UNIT	PAPER NUMBER
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2653

DATE MAILED: 05/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/058,790	Applicant(s) DENDA ET AL	
	Examiner Aristotelis M. Psitos	Art Unit 2653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Applicants' response of 1/18/05 has been considered with the following results.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

1. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over either the EP document 0997900 or under 102 (e) as anticipated by the US equivalent patent 6553532

With respect to apparatus claim 1, the document to Aoki, either the EP or the US discloses in this environment the ability of reading source information and writing it to a record medium—2. The write device of claim 1 is interpreted as element 4, whereas the read device is interpreted as inherently present as discussed at col. 6 line 27 to col. 7 line 31 in the US patent and the equivalent passages in the EP

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document. The detecting means, determination means and the control means are inherently present – see the description starting at col. 8 line 39 to col. 9 line 64. The ability to detect an interruption, determine the write status and the appropriate control means is present in order to carry out a rewrite/retry of the information to complete the recording that was aborted due to power loss.

Although the document doesn't specifically mention that the source of the information to be recorded onto the record 2 is from a first information storage medium, the examiner interprets the source of information as described in the above passages of the US/EP document as an obvious modification from the teaching from Sato, which discloses duplicating systems from a primary/source to a secondary target/slave recording medium.

It would have been obvious to modify the base system of Aoki with the well-known ability of having a "mother" source as the source of information in a duplicating apparatus as providing the input for subsequent recording upon duplicates, copies. Motivation is to provide an appropriate source of incoming information.

With respect to claim 2, applicants' attention is drawn to col. 9 lines 53-64.

With respect to claims 3,4, the examiner interprets such as the indication/evaluation of the ecc as discussed with respect to the operation of the Aoki system – col. 8 line 39 to col. 9 line 64.

With respect to the limitations of claims 5 and 6, they are inherently present in the above system – see the flow charts and the accompanying disclosure in the US Aoki reference.

With respect to claims 7 and 8, these are method limitations analogous to the apparatus limitations of claims 1 and 6 and are met when the above system to Aoki operates.

Response to Arguments

Applicant's arguments filed 1/18/05 have been fully considered but they are not persuasive. Applicants' have challenged the examiner's previous position with respect to the above claims under 103 in that the examiner did not cite any documentation with respect to the well-known concept (previously stated as Official notice) of duplicating systems.

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In response thereto, the examiner cites Sato, which teaches such a concept/ duplicating from one record medium to another as well as the power interrupt condition ability – see the further discussion with respect to power interrupt see col. 3 line 34 till col. 4 line 19.

The examiner maintains the previous position with respect to the claims under 103 for the reasons stated and amplified above.

2. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims 1-8 above, and further in view of Brandin.

Claim 9 is drawn to a product, a storage medium, which stores a program, a set of instructions that permits analogous appropriate method steps as defined in claim 7.

Although the system to Aoki implies that there is appropriate set of instructions for the system to follow the flow chart of figures 2 & 3, it is not specifically mentioned.

Brandin teaches the ability of providing a back up, e.g. a section of a disk; see for instance the description with respect to block 252 at col. 12 line 7. for the storage in a medium application information/instruction. These instructions are then relied upon in a microprocessor in providing the system with operational ability (i.e., operating system). Any pc/microprocessor requires a set of instructions to perform an operation.

It would have been obvious to modify the base system of Aoki and provide for a program record medium having therein the set of instructions to perform the operation outlined/discussed as designated in the flow charts of figures 2 & 3. Motivation is to provide for a source/set of instructions as either a back up, or as the original – commonly used in systems such as any system using a set of MICROSOFT™ instructions.

Response to Arguments

Applicant's arguments filed 1/18/05 have been fully considered but they are not persuasive.

Applicants' have argued that the examiner has failed to cite any documentation with respect to the Official

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notice position taken in the previous OA. The examiner cites Brandin to support his previous position with respect to Official notice.

Conclusion

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aristotelis M. Psitos whose telephone number is (571) 272-7594. The examiner can normally be reached on M-Thursday 8 - 4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William R. Korzuch can be reached on (571) 272-7589. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Aristotelis M Psitos
Primary Examiner



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